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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/835,465

Filing Date: April 17, 2001

Appellant(s): SENN ET AL.

MAILED

OCT 07 2005

Technology Center 2600

Basam Nabulsi
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/18/05 appealing from the Office action mailed 1/12/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Bellevue Linux, Plain Text Definition, 2005, pp. 1-5,

http://www.bellevuelinux.org/plain_text.html

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-38, 40-41 and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay Holt et al., U.S. Patent 5,528,261, 6/1996.

Claims 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holt et al. and further in view of Maribeth Back et al., U.S. Patent 6,515,690, 2/2003.

This rejection is set forth in a prior Office Action, mailed on 1/12/05.

(10) Response to Argument

A. Rejection of Claims 1-6, 8-26, 28-38, 40-41 and 43-44 under 35 U.S.C. 103(a) over Holt

The Examiner has rejected claims 1-6, 8-26, 28-38, 40-41 and 43-44 under 35 U.S.C. 103(a) over Holt. These claims were rejected over Holt in the non-final action provided prior to the final rejection of the claims over Holt. The final rejection of the claims was based on the previous non-final rejection with the addition of citations addressing limitations newly added by the Appellant's response to the non-final office action. Therefore the final rejection was proper as the Appellant's amendment necessitated the new grounds of rejection.

In response to appellant's argument that Holt is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Holt is analogous art because he teaches accepting input color sample data into a software architecture that stores and codes the input color sample data (as Appellant claims in independent claim 1) to perform color matching processing on the input color sample data (transformation of color between device dependent and/or independent color

spaces) (as Appellant similarly claims in dependent claim 38). Additionally, Holt is analogous art as it's patent classification , 345/604 color space transformation within computer graphics processing, is the same as that of the Appellant's presently claimed subject matter.

The Examiner has set forth a sustainable *prima facie* case in support of the 35 U.S.C 103 rejection of the present claims. This support is based on the identification of a correspondence of the cited portions of the Holt reference to that of each claim aspect of the present claims; and on the identification of a suggestion in the prior art to cause a person of skill in the art of creating color information files to modify the methods of Holt so as to arrive at the recited subject matter of the present claims. Bellevue Linux's "Plain Text Definition" provides evidence of such suggestion. Linux defines plain text as a string of character (pp. 1, Para 1), which usually refers to ASCII characters (pp. 1, Para 2) as Appellant's specification also discloses (pp. 9, Para 2). Linux identifies programming languages as examples of plain text formats that have the advantage of making plain text easier for computers to read, reorganize and restructure while keeping it relatively readable by humans (pp. 3, Para 3).

1) Applicant argues Holt is both inapposite and non-analogous, and therefore not properly applicable against appellant's claims...

In the rejection of the present claims, Examiner identified Holt fails to specifically disclose pure text format. The final rejection provides support for the suggestion of

modifying Holt to include a pure text format. Specifically one of ordinary skill in the art would have been motivated to modify the method of Holt to include a pure text format because an object-oriented programming design uses any of one of multiple text based programming languages to code/represent the color data to be processed, where text based programming languages implement a pure text format. Additionally, Linux provides evidence of such suggestion as Linux identifies programming languages as examples of plain text formats, which usually refer to ASCII text of character strings, that have the advantage of making plain text easier for computers to read, reorganize and restructure while keeping it relatively readable by humans (pp. 3, Para 3).

Holt is focused on the provision of an operating system software architecture that receives color input data that is stored, coded, classified, and manipulated to perform color matching amongst any peripheral device interfacing with the architecture. Therefore, Holt is considered to related to the field of endeavor in which the Appellant is engaged. Accordingly, the teachings of Holt are considered to be pertinent to the particular problem with which the Appellant is concerned.

Thus, Examiner submits that (1) Holt is properly relied upon in the proper final rejection of the present claims (2) Holt is analogous to the Appellant's field of endeavor, and (3) identification of a suggestion to modify the method of Holt to arrive at the recited subject matter of the present claims has been provided as evidenced by Linux.

2) Appellant argues Examiner has failed to establish a *prima facie* case of obviousness...

Holt teaches with respect to a data set describing the color impression of a color sample, all of: (1) coding the data set into a text format; (2) storing such a data set in a color information file; (3) storing in the color information file information data identifying, characterizing, and supplementing such color sample; and/or (4) storing such information data in the color information file in a format containing data objects and having an open, expandable and hierarchically organized object structure, as identified in the details which follow.

Holt teaches with respect to a data set of color profiles or tonal reproduction curves describing for example a red color sample of a particular peripheral device (col. 5, ll. 35-40) (Appellant's specification pp. 9, ll. 1-12 also defines a color sample as having a device color profile) all of: (1) a color architecture storing the color impression data (e.g. properties which describe the color sample such as color profiles, tonal reproduction curves) of the color sample from the particular peripheral device in a object oriented coded text format (e.g. C++ programming language); (2) the color architecture maintains classes for storing the data in a color information file (e.g. class TColorProfile stores color profile data) (col. 10, ll. 33-35), where the classes and the data stored therein is provided in a text format (e.g. programming language C++) such that the classes are labeled and identified in a text format (Fig. 5, text labels identifying the

classes of the system software architecture) and the data stored therein is represented in a text format (Holt Appendix A illustrates the text data related to the color sample and represented in the classes); (3) the color architecture maintains classes that identifies the color sample data (e.g. class TColor identifies the color sample to be processed) and characterizes the color sample data (e.g. the hierarchical classes, such as TSpectralColor, that descend from the class TColor contain further data that describe the color sample Fig. 5) and supplements the color data (e.g. class TColorMatcher adds to or changes the color data Fig. 5) (col. 11, ll. 40-60) (4) the color architecture is formatted to contain classes of color sample data that are hierarchically organized (e.g. a base class, TColor, has descendant classes, such as device color and spectrum, that are related to the color sample data as Appellant also represents in Appellant's Fig. 2) (Holt, Fig. 5), where new data may be added to the classes to expand the data useable by the architecture (abstract), such that new data may be added to expand the system without changing the overall architecture.

Also, motivation to modify Holt as suggested in the final rejection to arrive at the subject matter of the present claims is evidenced by Linux as indicated above.

B. Rejection of Claims 39 and 42 under 35 U.S.C. 103(a) over Holt in view of Back

The foregoing response to Appellants arguments in the above section 10A above is incorporated in this section in its entirety.

Claims 39 and 42, which depend from claims 1 and 21 are not allowable for at least the reasons noted above with respect to independent claims 1 and 21. Additionally, Examiner submits that rejection of claims 39 and 42 is proper and accordingly the rejection of the claims is maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

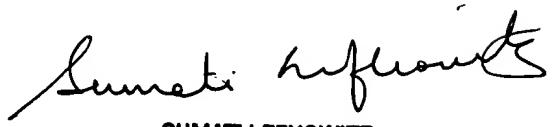
Respectfully submitted,

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